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2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Strengthening the implementation of articles I and II of the Treaty on the Non-Proliferation of Nuclear Weapons

Working paper submitted by the United States

The NPT is a key legal barrier against the spread of nuclear weapons and material related to the production of such weapons. The NPT is fundamentally a Treaty for mutual security. It is clear that the security of all member states depends on unstinting adherence to the Treaty's nonproliferation norms by all other parties. The Treaty's principal beneficiaries are those member states that do *not* possess nuclear weapons because they can be assured that their neighbors also do not possess nuclear weapons. Strict compliance with nonproliferation obligations is essential to regional stability, to forestalling nuclear arms races, and to preventing resources needed for economic development from being squandered in a destabilizing and economically unproductive pursuit of weapons.

Today, the Treaty is facing the most serious challenge in its history due to instances of noncompliance with its nonproliferation obligations. Although the vast majority of member states have lived up to these obligations, which constitute the Treaty's most important contribution to international peace and security, some have not. We must confront this challenge in order to ensure that the Treaty remains relevant. This Review Conference provides an opportunity for NPT States Parties to demonstrate resolve in reaffirming our collective determination that noncompliance with the Treaty's core nonproliferation norms is a clear threat to international peace and security.

The United States suggests the following language on Articles I and II for use in the Main Committee I report and any Review Conference Final Document

Articles I and II - Nonproliferation

1. The Conference declares that the NPT provides a key legal barrier to nuclear weapons proliferation and makes a critical contribution to international security. Parties must seek ways to strengthen the Treaty to ensure that it continues to play an effective role in promoting world peace and security.

2. The Conference notes that the NPT has faced a number of profound challenges since the last Review Conference due to non-compliance with the Treaty's nonproliferation obligations. This has undermined the

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core objective of the NPT -- to prevent the spread of nuclear weapons -- and has decreased confidence in the nonproliferation regime and put at risk the security benefits of the Treaty.

3. The Conference recalls that the United Nations Security Council affirmed, in its 31 January 1992 Declaration and in U.N. Security Council Resolution 1540 of 28 April 2004, that proliferation of weapons of mass destruction constitutes a threat to international peace and security.

4. The Conference recognizes that NPT parties accede to the Treaty to enhance their security through each party's acceptance of nonproliferation obligations. These security benefits will be realized only so long as all parties comply with and enforce these obligations. Noncompliance threatens all parties and demands an effective response or there will be further erosion in security and in confidence in the NPT.

5. The Conference affirms the importance of the collective will of its parties to strengthen compliance with and enforcement of the Treaty's nonproliferation obligations. NPT parties that violate the Treaty's nonproliferation undertakings must be held accountable.

6. The Conference recognizes the need to persist in efforts to resolve ongoing cases of noncompliance, not only to remedy the security threat posed by these states, but also to demonstrate the international community's resolve and to deter others from following the violators' defiant behavior.

7. The Conference expresses concern with the appearance of clandestine international nuclear supply and procurement networks, including for the most sensitive technologies and weapons designs. The exposure of the A.Q. Khan network and the history of NPT violations involving enrichment and reprocessing clearly demonstrate that more needs to be done.

8. The Conference is concerned about the risk that certain states could acquire fissile material production capability and then violate or withdraw from the Treaty to pursue nuclear weapons.

9. The Conference considers that the crisis of noncompliance by Treaty parties threatens the security of all nations, including through the potential for terrorists to exploit these violations in their own pursuit of nuclear material for a radiological device or nuclear weapon.

10. The Conference urges NPT nuclear-weapon state parties to establish and enforce the controls necessary to ensure compliance with their Article I undertakings and to consult among themselves periodically in an effort to ensure the application of all necessary control measures.

11. The Conference urges NPT non-nuclear-weapon state parties to refrain from activities designed to develop a nuclear weapons capability, to ensure that the necessary national laws and regulations have been adopted and are being strictly enforced to comply with their NPT Article II undertaking, and to provide transparency sufficient to demonstrate that their nuclear programs conform with their nonproliferation obligations.

12. The Conference affirms the need for a high standard of compliance with Article II. It calls on all NPT parties to assess and enforce compliance with the prohibition on the manufacture and acquisition of nuclear weapons, as well as on the seeking and receiving of any assistance in the manufacture or acquisition of nuclear weapons. It urges NPT parties to identify and stop all such violations as early as possible, well before these activities result in the actual manufacture or acquisition of a nuclear weapon.

13. The Conference underlines, in that regard, that facts indicating that the purpose of a particular activity is the acquisition of a nuclear weapon would suggest noncompliance with Article II. Examples of activities indicative of noncompliance include clandestine facilities or procurement, willful IAEA safeguards violations, a pattern of deception and denial, and the pursuit of a nuclear program with no legitimate justification for peaceful purposes (e.g., the acquisition of enrichment or reprocessing facilities with no clear economic justification).

14. The Conference supports UN Security Council Resolution 1540, adopted on April 28, 2004 on preventing the proliferation of weapons of mass destruction and strengthening export controls and nuclear material security, and invites cooperation in its implementation including through the provision of assistance where possible and needed. It urges all states, as required by Resolution 1540, to adopt national legal and regulatory measures, including enforcement provisions with appropriate penalties for violations. This Resolution is particularly important in thwarting the activities of non-state actors that have contributed to NPT violations in recent years. The Conference calls on all NPT parties to ensure that their national legal systems reflect both the broad goals of the NPT and the specific requirements of Resolution 1540, and are adequate to ensure compliance by persons and entities within their jurisdiction.

15. The Conference recognizes the importance of the action by the United Nations General Assembly in adopting on April 13, 2005, the International Convention for the Suppression of Acts of Nuclear Terrorism. It believes this Convention will, when it enters into force, strengthen the international legal framework to combat nuclear terrorism and thus supplement the nonproliferation undertakings of the NPT. It urges nations to sign the Convention when it opens for signature on September 14, 2005, and to ratify and implement it as soon as possible.

16. The Conference supports coordinated activities, consistent with international law, to interdict shipments, whether to or from states or non-state actors, of WMD-related equipment, materials, and technology that are inconsistent with the NPT's nonproliferation principles. It stresses that the Proliferation Security Initiative and similar activities that are carried out consistent with national legal authorities and relevant international law, including UN Security Council decisions, provide an extra measure of enforcement of existing treaties and regimes including the NPT.

17. The Conference welcomes the ongoing effort to amend the UN Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and thus broaden the authority of the Convention to conduct maritime interdictions of WMD-related shipments. It considers this a useful effort toward expanding the tools available to thwart proliferation and urges all states to cooperate toward the goal of endorsing these amendments at a diplomatic conference scheduled for October 2005.

18. The Conference considers that NPT parties should foster an attitude of zero tolerance for violations and make clear in advance a willingness to invoke promptly strong measures in response to any noncompliance. It judges that such policies would decrease the risk of future violations and help restore international confidence in the viability of the nonproliferation regime.

19. The Conference encourages NPT parties to consider a wide range of responses to any noncompliance with the NPT and to take appropriate steps, including, but not limited to, a halt to nuclear cooperation with the offending state. NPT parties should, through appropriate means, seek a halt in the use of equipment or material acquired or produced as a result of a material violation of the NPT's nonproliferation obligations, and require the return of such items or their elimination.

20. The Conference recalls the role of the UN Security Council when cases of nuclear proliferation, including noncompliance with Articles I or II, are brought to its attention. The Council should act promptly in such circumstances to determine a response, particularly when a case constitutes a threat to international peace and security.

21. The Conference stresses that NPT violators can improve their standing in the international community by a return to strict compliance with the Treaty, implementation of the Additional Protocol, and the complete, verifiable and irreversible dismantling of any components supporting a nuclear weapons program.

22. The Conference believes that lifting of measures imposed on a noncompliant state should be strictly linked to verifiable actions that demonstrate over a period of time that the state has remedied the violation and that any remaining nuclear activities are fully consistent with its NPT obligations.

23. The Conference commends the government of Libya for its decision to abandon its nuclear weapons program and come back into compliance with the NPT.